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October 2, 2013

VIA ECF

Honorable Magistrate Judge Robert M. Levy
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Silverman & Silverman, LLP v. Pacifica Foundation*
Case No. : CV 11 1894 (FB)(RML)
LBC&C File No. : 12 169L 96421

Honorable Magistrate Levy:

We write as counsel for plaintiff Silverman & Silverman, LLP ("Silverman") on the counterclaims and with respect to the defendant Pacifica Foundation's ("Pacifica") failure to comply with the Court's recent order. Pursuant to our September 12, 2013 letter, we detailed Pacifica's continued failure to comply with this Court's orders, its discovery obligations and to take any serious action to either resolve this matter or litigate it. We, therefore, requested that the Court order that Pacifica be required to provide a list of at least four options for two consecutive days of depositions that all of their witnesses will be available in either October and/or November, 2013 to be deposed. We also requested that if it did not comply with such deadlines set by the Court, that Pacifica be sanctioned, on a daily basis, until the order is satisfied. On September 17, 2013, the parties appeared for a conference call to discuss Silverman's letter motion, and the Court, pursuant to an order of the same date, granted Silverman's motion. In the Court's order, it states that Pacifica must provide dates for the California depositions no later than October 1, 2013. The order also specifically stated "failure to comply will result in sanctions, as defendant will not be permitted to ignore its discovery obligations."

It is now October 2, 2013, and we report to the Court that Pacifica has failed to comply with the Court's order. Thus, we respectfully request that the Court immediately begin sanctioning Pacifica on a daily basis. Moreover, we respectfully request if Pacifica still does not comply after a week of sanctions, that the Court either *sua sponte* or permit us to make a motion for the dismissal of the counterclaims against our client.

Respectfully submitted,

SCOTT E. KOSSOVE

SEK:lg

cc: (Via ECF)

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